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Letter dated 30 December 2010 from the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan (see annex), which covers the Committee's activities during the period from 1 January to 31 December 2010. The report is submitted in accordance with the note by the President of the Security Council of 29 March 1995 (S/1995/234).

(*Signed*) Thomas **Mayr-Harting**
Chairman
Security Council Committee established pursuant
to resolution 1591 (2005) concerning the Sudan

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Annex

Report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

I. Introduction

1. The present report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan covers the period from 1 January to 31 December 2010.

2. During this period, the Bureau consisted of Thomas Mayr-Harting (Austria) as Chairman, with the delegations of Bosnia and Herzegovina and Mexico providing the Vice-Chairmen. In 2010, the Committee held eight informal consultations. The web page of the Committee is available from http://www.un.org/sc/committees/1591.

II. Background information and activities of the Committee

A. Background information

3. By its resolution 1556 (2004), the Security Council imposed an arms embargo on all non-governmental entities and individuals, including the Janjaweed, operating in the states of Northern Darfur, Southern Darfur and Western Darfur in the Sudan.

4. By its resolution 1591 (2005), the Council broadened the scope of the arms embargo, with immediate effect, to include all the parties to the N'Djamena Ceasefire Agreement and any other belligerents in the states of Northern Darfur, Southern Darfur and Western Darfur. By the same resolution, the Council established a Committee to monitor the implementation of the arms embargo and the two additional measures imposed by the resolution, namely, a travel ban and an assets freeze on those individuals designated by the Committee on the basis of the criteria contained in the resolution. The travel ban and the assets freeze entered into effect on 29 April 2005.

5. By its resolution 1591 (2005), the Council also established, for a period of six months, a four-member Panel of Experts to assist the Committee in monitoring the implementation of the arms embargo, travel ban and assets freeze, to report to the Council through the Committee with its findings and recommendations, and to coordinate its activities as appropriate with ongoing operations of the African Union Mission in the Sudan (AMIS). Under the same resolution, the Panel of Experts was also identified as a source of information regarding individuals who might be designated by the Committee as subject to the targeted sanctions.

6. By its resolution 1945 (2010), the Council strengthened the enforcement of the arms embargo by clarifying the exceptions to that measure and by making the sale or supply of arms and related materiel to the Sudan not prohibited by the embargo contingent upon the necessary end-user documentation. The Council also expressed its intention, following the midterm report of the Panel of Experts that it requested no later than 31 March 2011, to review the state of implementation, including obstacles to full and effective implementation of the measures imposed in resolution 1591 (2005), with a view to ensuring full compliance.

7. The mandate of the Panel of Experts has been extended seven times, by Security Council resolutions 1651 (2005), 1665 (2006), 1713 (2006), 1779 (2007), 1841 (2008), 1891 (2009) and 1945 (2010). The current extension expires on 19 October 2011. In resolution 1713 (2006), the Council authorized the addition of a fifth expert to enable the Panel to better carry out its mission. In its resolutions 1779 (2007), 1841 (2008), 1891 (2009) and 1945 (2010), the Council also requested the Panel to coordinate its activities as appropriate with the operations of the African Union-United Nations Hybrid Operation in Darfur (UNAMID), which succeeded AMIS, and with international efforts to promote the political process in Darfur. In addition, in the same resolutions, the Council requested the Panel to assess in its interim and final reports progress towards reducing violations by all parties of the arms embargo, the travel ban and the assets freeze; progress towards removing impediments to the political process and threats to stability in Darfur and the region; and progress towards reducing other violations of resolutions 1556 (2004) and 1591 (2005). In resolution 1945 (2010), in the aforementioned context, the Council also referred to violations of international humanitarian or human rights law or other atrocities, including sexual- and gender-based violence. Following each extension, the Secretary-General has appointed individuals to serve on the Panel.[1]

8. In the course of its mandate and in accordance with the relevant Security Council resolutions, the Panel of Experts submitted and/or presented 10 written interim/progress reports, dated 7 October 2005, 15 July 2006, 16 March 2007, 2 July 2007, 27 March 2008, 11 August 2008, 2 March 2009, 25 May 2009, 15 March 2010 and 24 May 2010; and three midterm reports, dated 14 May 2008, 30 April 2009 and 2 July 2010. The Panel also submitted and presented, at the end of each mandate, seven final reports to the Committee, which were subsequently transmitted by the Chairman to the President of the Council.[2]

9. By its resolution 1672 (2006), the Council designated four individuals as subject to the travel ban and assets freeze imposed by resolution 1591 (2005).

10. By its resolution 1679 (2006), the Council expressed its intention to consider taking, including in response to a request by the African Union, strong and effective measures, such as a travel ban and assets freeze, against any individual or group that violated or attempted to block the implementation of the Darfur Peace Agreement.

11. By its resolution 1769 (2007), the Council decided that UNAMID would monitor whether any arms or related material were present in Darfur in violation of the Agreements and the measures imposed by paragraphs 7 and 8 of resolution 1556 (2004). Resolution 1935 (2010) also referred explicitly to the aspect of the UNAMID mandate relating to the monitoring of the arms embargo.

12. By a presidential statement dated 24 October 2007 (S/PRST/2007/41), the Council called on all parties to attend and to engage fully and constructively in the talks in Sirte, Libyan Arab Jamahiriya, and, as a first step, to urgently agree and implement a cessation of hostilities to be overseen by the United Nations and the African Union. The Council underlined its willingness to take action against any

[1] See S/2005/428, S/2006/23, S/2006/99, S/2006/301, S/2006/926, S/2007/706, S/2008/743, S/2009/639 and S/2010/140.

[2] The first six reports have been published (see S/2006/65, S/2006/250, S/2006/795, S/2007/584, S/2008/647 and S/2009/562). The final report prepared pursuant to resolution 1891 (2009) is forthcoming, pending adoption by the Council.

party that sought to undermine the peace process, including by failing to respect such a cessation of hostilities or by impeding the talks, peacekeeping or humanitarian aid.

13. By a presidential statement of 11 January 2008 (S/PRST/2008/1), the Council expressed its readiness to take action against any party that impeded the peace process, humanitarian aid or the deployment of UNAMID. The Council also recognized that due process had to take its course.

14. By a presidential statement of 16 July 2008 (S/PRST/2008/27), the Council underlined its determination to take action against those responsible for the attack on 8 July 2008 on a UNAMID military and police convoy, after hearing the outcome of the UNAMID investigation into the attack.

15. By its resolution 1828 (2008), the Council reiterated its readiness to take action against any party that impeded the peace process, humanitarian assistance or the deployment of UNAMID and recognized that due process had to take its course.

16. By a presidential statement of 16 November 2010 (S/PRST/2010/24), the Council expressed its willingness to consider measures against any party whose actions undermined peace in Darfur. This was reiterated in a presidential statement of 16 December 2010 (S/PRST/2010/28).

B. Summary of the activities of the Committee

17. During the period under review, pursuant to paragraph 5 of Security Council resolution 1891 (2009), in which the Council encouraged all States, in particular those in the region, to report to the Committee on the actions they had taken to implement measures imposed by resolutions 1591 (2005) and 1556 (2004), the Committee received reports from 11 Member States. Pursuant to paragraph 6 of resolution 1945 (2010), in which the Council urged such reporting, including on the imposition of targeted measures, the Committee has to date received a report from one Member State. All the reports are available on the Committee's web page.

18. In informal consultations on 12 January 2010, the Committee met the new Panel of Experts appointed pursuant to resolution 1891 (2009) and discussed the Panel's reporting timelines.

19. In informal consultations on 29 March 2010, the Committee heard a presentation by the Panel of Experts of its interim report. In addition to presenting its preliminary findings, the Panel reported on the level of cooperation extended to it by the Governments of Chad and the Sudan. The Panel also requested the Committee's guidance on the scope of the arms embargo.

20. In informal consultations on 24 May 2010, in continuation of its dialogue with UNAMID, the Committee met with the African Union-United Nations Joint Special Representative for Darfur, Ibrahim Gambari. Subsequently, in its resolution 1945 (2010) of 14 October, the Council welcomed the enhanced cooperation and information sharing between UNAMID and the Panel of Experts facilitated by the Department of Peacekeeping Operations' guidelines and the decision of UNAMID to establish a focal point to facilitate information sharing with the Panel regarding the arms embargo. At the same meeting, the Chairman briefed the Committee on his bilateral meeting with the Permanent Representative of the Sudan, which was held

to follow up on requests for information in the four areas set out in recommendation No. 1 of the 2009 final report of the Panel (S/2009/562, para. 367).

21. In informal consultations on 7 June 2010, the Committee heard a briefing by the Executive Director of the Global Compact, Georg Kell. The briefing was organized as a follow-up to recommendation No. 3 of the aforementioned report of the Panel of Experts, which pertains to enhancing due diligence for corporations whose products and services potentially affect the conflict in Darfur. Mr. Kell clarified that the Global Compact network for the Sudan focused on community investment and access to water and the environment, and had limited linkages to Darfur. He highlighted that the Global Compact was launching a new guidance document on responsible conduct of business in conflict-affected and high-risk areas, which, inter alia, referred to the need for companies to ensure compliance and respect for Security Council resolutions, typically on sanctions, and would help in creating awareness of such measures. In its resolution 1945 (2010) of 14 October, the Council welcomed the Committee's work, which it noted had drawn on the reports of the Panel of Experts and taken advantage of the work done in other forums to draw attention to the responsibilities of private sector actors in areas affected by conflict. At the same meeting, the Committee considered a progress report submitted by the Panel.

22. By a letter dated 28 June 2010, addressed to the Permanent Representative of the Sudan, the Chairman sought further details and clarification on various aspects of the implementation of the arms embargo by the Sudan. No response was received.

23. In informal consultations on 7 July 2010, the Committee heard a midterm briefing by the Panel of Experts. The briefing was accompanied by a written report. In addition to presenting its findings, the Panel highlighted problems of access in Darfur. The Panel had received authorization from the Government of the Sudan to visit four of six locations of interest; however, owing to security considerations and the logistical requirements of both the Government of the Sudan and UNAMID, the Panel had not yet been able to visit them. The Panel also noted that a party to armed conflict had continued to refuse to cooperate with the Panel. Some members of the Committee shared with the Panel their view of the scope of the arms embargo.

24. In informal consultations on 4 October 2010, the Committee heard a presentation by the Panel of Experts of its final report and the confidential annex to that report, dated 20 and 29 September, respectively. Several of the recommendations contained in the report were taken up either by the Council in resolution 1945 (2010) or by the Committee in its subsequent informal consultations. On 25 October, the Panel made available to the members of the Committee supplementary information in support of its findings.

25. In informal consultations on 20 October 2010, the Committee met to discuss in depth the recommendations contained in the final report of the Panel of Experts. The Committee agreed to dispatch a note verbale to all Member States and a letter to the Permanent Representative of the Sudan, drawing their attention to paragraphs 9 and 10 of resolution 1945 (2010). The two texts were approved on 29 November and dispatched subsequently. The Committee agreed that responsibility for attacks on UNAMID met the criteria for designating individuals as subject to the targeted sanctions. The Committee also agreed that, on a future date, it would invite the Joint African Union-United Nations Chief Mediator for Darfur to provide to the

Committee a dedicated briefing on individuals who were impeding the peace process.

26. In informal consultations on 24 November 2010 and following the 7 June briefing by the Executive Director of the Global Compact, the Committee heard a briefing by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, who informed the Committee that he did not have a country-specific mandate. He spoke in general about the draft guiding principles for the implementation of the "protect, respect and remedy" framework for better managing business and human rights challenges, which the Human Rights Council had asked him to produce.

27. During the period under review, in accordance with subparagraph 3 (a) (iv) of resolution 1591 (2005), the Chairman delivered four reports, each covering a 90-day period, to the Security Council. In each report he described the Committee's activities since his last briefing to the Council. He delivered the reports in informal consultations of the whole on 4 March, 10 June, 17 September and 16 December 2010.

28. In conducting its work, the Committee continued to apply the guidelines it adopted on 23 March 2006 and amended on 27 December 2007. Among other purposes, the guidelines serve to facilitate the implementation of the travel ban and assets freeze imposed by subparagraphs 3 (d) and (e) of resolution 1591 (2005), in accordance with subparagraph 3 (a) (iii) of the same resolution. In that connection, however, no requests were received by the Committee either to remove the names of individuals on the consolidated list of persons subject to the travel ban and assets freeze or to make exemptions to the targeted sanctions.

III. Violations and alleged violations of the sanctions regime as reported by the Panel of Experts

29. In its 2010 final report, the Panel of Experts described continued violations of the arms embargo and of international humanitarian law and human rights perpetrated by various belligerents in Darfur. According to the Panel, sexual- and gender-based violence remained widespread. The Panel reported offensive military overflights and bombardments in Darfur. It also reported no concrete action by the Government of the Sudan to implement the targeted travel and financial sanctions. The Panel noted positive developments in the context of the normalization of relations between the Governments of the Sudan and Chad and the Doha process.